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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,286	07/10/2003	Joseph P. McDonald	618.003	2652

7590

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EXAMINER

MILLER, JONATHAN R

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/617,286	Applicant(s) MCDONALD, JOSEPH P.	
	Examiner Jonathan R. Miller	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 7-14 and 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 15-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 2-6 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (i).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031027</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 – 6 and 15-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,622,868.

Although the conflicting claims are not identical, they are not patentably distinct from each other.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 17 recites the limitation "the papermaking fluid" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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6. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22, which depends from claim 21, seems to conflict with claim 21. Claim 21 states that the screen is moved by moving the frame. Claim 22 states that the screen is moved by directing fluid onto the screen. How can claim 22 be reconciled with claim 21? They seem to be mutually exclusive.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 15 – 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bolton ('955). The reference discloses a screen arrangement including a support (10) and a screen (24) suspended from the support, wherein the screen defines an interior and an outlet (Fig. 1), and is constructed of a flexible and pliable screen material formed of a series of interwoven strands that define drainage passages (inherently); a fluid supply arrangement (36-38) configured to direct the fluid outwardly from within the interior of the screen onto the inner surface of the screen, wherein the fluid impinges on the inner surface of the screen at one or more impingement locations, and wherein the screen is configured to deflect outwardly at the one or more impingement locations (inherently), wherein the drainage passages are sized to retain the material on an inner surface defined by the screen and to allow the particulate matter to pass through the drainage passages; and means interconnected with the support for imparting

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movement to the screen (34 and 36-38), wherein movement of the screen varies the one or more impingement locations while the fluid is directed outwardly onto the inside surface of the screen by the fluid supply arrangement; wherein the outward deflection of the screen upon movement of the screen past the one or more impingement locations functions to vary the configuration of the drainage passages to dislodge any particulate matter located within the drainage passages, and wherein pressure applied by the fluid supply arrangement at the one or more impingement locations functions to force the particulate matter located within the drainage passages through the drainage passages so as to prevent buildup of particulate matter within the drainage passages. Examiner contends that the disclosed screen is inherently flexible and pliable and that the spraying of the screen as the sprayers rotate, inherently causes movement of the screen.

9. With regards to claim 15, the reference further discloses directing the fluid onto a surface of a flexible screen, wherein the screen defines drainage passages sized to retain the material on the surface of the screen and wherein the drainage passages allow fluid and particulate matter contained within the fluid to pass through the screen (col. 2, lines 55+), wherein the screen is supported by a support arrangement that is configured to provide outward deflection of the screen where the fluid is directed onto the surface of the screen (Fig. 1); and causing movement of the screen while directing the fluid onto the surface of the screen so as to vary the location at which the fluid is directed onto the surface of the screen, wherein the movement of the screen combined with the outward deflection of the screen is operable to alter the configuration of the drainage passages of the screen to dislodge particulate matter contained within the drainage passages, wherein pressure applied to the surface of the screen by the fluid is operable to force

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particulate matter contained within the drainage passages through the drainage passages to prevent buildup of particulate matter within the screen passages (col. 2, lines 55+).

10. With regards to claim 16, the reference further discloses the step of collecting the material from a discharge area defined by the screen (col. 3, lines 2+).

11. With regards to claim 17, the reference further discloses the step of causing movement of the flexible screen is carried out by varying the location at which the papermaking fluid is directed onto the surface of the screen (col. 2, lines 29+).

12. With regards to claim 19, the reference further discloses the step of causing movement of the flexible screen is carried out by imparting movement to the screen through a frame arrangement from which the screen is suspended (col. 2, lines 29+). Examiner contends that movement is imparted to the screen through the frame arrangement via the sprayers as set forth above.

13. With regards to claim 20, the reference further discloses the screen is configured to define a conical shape having an open lower end defining the discharge area of the screen and wherein the frame arrangement is located at an upper end defined by the screen, and wherein the step of directing the fluid onto the surface of the screen is carried out by directing the fluid outwardly toward an inner surface defined by the screen from a location within an interior defined by the screen (Fig. 1).

14. Claims 1, 15, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by EPO 567,208 A2. The reference discloses a screen arrangement including a support (14) and a screen (16) suspended from the support, wherein the screen defines an interior and an outlet, and is constructed of a flexible and pliable screen material formed of a series of interwoven strands that

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define drainage passages; a fluid supply arrangement (30) configured to direct the fluid outwardly from within the interior of the screen onto the inner surface of the screen, wherein the fluid impinges on the inner surface of the screen at one or more impingement locations, and wherein the screen is configured to deflect outwardly at the one or more impingement locations (inherently occurs), wherein the drainage passages are sized to retain the material on an inner surface defined by the screen and to allow the particulate matter to pass through the drainage passages; and means interconnected with the support (32) for imparting movement to the screen, wherein movement of the screen varies the one or more impingement locations while the fluid is directed outwardly onto the inside surface of the screen by the fluid supply arrangement; wherein the outward deflection of the screen upon movement of the screen past the one or more impingement locations functions to vary the configuration of the drainage passages to dislodge any particulate matter located within the drainage passages, and wherein pressure applied by the fluid supply arrangement at the one or more impingement locations functions to force the particulate matter located within the drainage passages through the drainage passages so as to prevent buildup of particulate matter within the drainage passages. Examiner contends that the movement of the screen inherently occurs with the rotation of the sprayers.

15. With regards to claim 15, the reference further discloses directing the fluid onto a surface of a flexible screen, wherein the screen defines drainage passages sized to retain the material on the surface of the screen and wherein the drainage passages allow fluid and particulate matter contained within the fluid to pass through the screen, wherein the screen is supported by a support arrangement that is configured to provide outward deflection of the screen where the fluid is directed onto the surface of the screen; and causing movement of the screen while

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directing the fluid onto the surface of the screen so as to vary the location at which the fluid is directed onto the surface of the screen, wherein the movement of the screen combined with the outward deflection of the screen is operable to alter the configuration of the drainage passages of the screen to dislodge particulate matter contained within the drainage passages, wherein pressure applied to the surface of the screen by the fluid is operable to force particulate matter contained within the drainage passages through the drainage passages to prevent buildup of particulate matter within the screen passages (col. 2, lines 49+).

16. With regards to claim 16, the reference further discloses the step of collecting the material from a discharge area defined by the screen (col. 2, lines 49+).

17. With regards to claim 19, the reference further discloses the step of causing movement of the flexible screen is carried out by imparting movement to the screen through a frame arrangement from which the screen is suspended. Examiner contends that movement is imparted to the screen through the frame arrangement via the sprayers as set forth above.

18. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Bolton ('142). The reference discloses a screen arrangement including a support (14) and a screen (12) suspended from the support, wherein the screen defines an interior and an outlet, and is constructed of a flexible and pliable screen material (col. 2, lines 44+; inherently flexible and pliable) formed of a series of interwoven strands that define drainage passages (Fig. 1); a fluid supply arrangement (36 and 42) configured to direct the fluid outwardly from within the interior of the screen onto the inner surface of the screen, wherein the fluid impinges on the inner surface of the screen at one or more impingement locations, and wherein the screen is configured to deflect outwardly at the one or more impingement locations (inherently), wherein the drainage passages are sized to



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retain the material on an inner surface defined by the screen and to allow the particulate matter to pass through the drainage passages; and means interconnected with the support for imparting movement to the screen, wherein movement of the screen varies the one or more impingement locations while the fluid is directed outwardly onto the inside surface of the screen by the fluid supply arrangement; wherein the outward deflection of the screen upon movement of the screen past the one or more impingement locations functions to vary the configuration of the drainage passages to dislodge any particulate matter located within the drainage passages, and wherein pressure applied by the fluid supply arrangement at the one or more impingement locations functions to force the particulate matter located within the drainage passages through the drainage passages so as to prevent buildup of particulate matter within the drainage passages (col.4, lines 4+).

***Allowable Subject Matter***

19. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. Claim 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

21. Claim 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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22. The following is a statement of reasons for the indication of allowable subject matter: with regards to claim 2, the references do not disclose, or render obvious, the screen defines a lower area located below the frame arrangement that is unsupported, in combination with the other elements of claim 2; with regards to claim 18, the references do not disclose, or render obvious, the step of varying the location at which the fluid is directed onto the surface of the screen is carried out by discharging the fluid through a pliable discharge member interconnected with a rigid conduit, wherein the pliable discharge member defines an outlet which is movable in response to the discharge of fluid therethrough; and with regards to claim 21, the references do not disclose, or render obvious, the step of imparting movement to the screen is carried out by rotating the frame arrangement while the fluid is directed onto the inner surface of the screen.

*Conclusion*

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (571) 272-6940. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571) 272-6944. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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